

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALESSANDRO MASI,

Plaintiff,

- against -

REDIFF.COM, INC.,

Defendant.

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Docket No. 17-cv-03126

JURY TRIAL DEMANDED

ANSWER

Defendant Rediff.com, Inc. (“Rediff” or “Defendant”), by and through its undersigned counsel, as and for its Answer against Plaintiff Alessandro Masi (“Masi” or “Plaintiff”) hereby submits as follows:

NATURE OF THE ACTION

1. Rediff admits that Plaintiff purports to bring claims under the Copyright Act, 17 U.S.C. § 101 et seq., but denies all remaining allegations of Paragraph 1 of the Complaint.

JURISDICTION AND VENUE

2. Rediff admits that Plaintiff purports to bring claims under the Copyright Act, 17 U.S.C. § 101 et seq. and that this Court has subject matter jurisdiction of Copyright Act claims under 28 U.S.C. §§ 1331 and 1338(a).

3. Rediff admits that it is registered to do business in New York with a place of business at Rediff.com c/o International Tax Solutions, 6707 Roosevelt Avenue, Woodside, New York 11377, but denies all remaining allegations of Paragraph 1 of the Complaint.

4. Rediff admits that for purposes of this action only, it does not challenge venue in this District, but otherwise denies all remaining allegations of Paragraph 4 of the Complaint.

PARTIES

5. Rediff denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 5 of the Complaint, and therefore denies same.

6. Rediff denies that it has a place of business at 43 West 24th Street, 7th Floor, New York, New York 10010, but admits the remaining allegations in Paragraph 6 of the Complaint.

STATEMENT OF FACTS

7. Rediff denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 7 of the Complaint, and therefore denies same.

8. Rediff denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 8 of the Complaint, and therefore denies same.

9. Rediff states that the records issued by the U.S. Copyright Office for Copyright Registration Number VA1-996-957 speak for themselves. Rediff denies knowledge or information sufficient to form a belief as to the truth or falsity of any remaining allegations contained in Paragraph 9 of the Complaint, and therefore denies same.

10. Rediff denies that Exhibit B of the Complaint is a true and correct copy of an article published on or about July 29, 2011 on www.rediff.com entitled *Inside Norway's luxurious Halden jail*, and further denies that the article prominently featured the Photographs attached as Exhibit A to the Complaint, but admits the remaining allegations of Paragraph 10 of the Complaint.

11. Rediff denies Plaintiff discovered any infringement by Defendant as no such infringement occurred. Rediff denies knowledge or information sufficient to form a belief as to the truth or falsity of any remaining allegations contained in Paragraph 11 of the Complaint, and therefore denies same.

12. Rediff denies that any license from Plaintiff was necessary for fair use of the Photographs in a news article about the Halden jail, but admits that Rediff did not obtain a license from Plaintiff for the Photographs or otherwise communicate with Plaintiff in July 2011 regarding the Photographs as Rediff was not aware of Plaintiff's purported copyright in the Photographs and the Photographs were widely published by numerous seemingly unrelated third parties throughout the Internet without copyright attribution to Plaintiff.

CLAIM FOR RELIEF

13. Rediff repeats each and every response set forth above as if fully set forth herein.

14. Rediff denies that any license from Plaintiff was necessary for fair use of the Photographs in a news article about the Halden jail, but admits that Rediff did not obtain a license from Plaintiff for the Photographs. Rediff denies all remaining allegations set forth in Paragraph 14 of the Complaint.

15. Rediff denies all allegations set forth in Paragraph 15 of the Complaint.

16. Rediff denies all allegations set forth in Paragraph 16 of the Complaint.

17. Rediff denies all allegations set forth in Paragraph 17 of the Complaint.

18. Rediff denies all allegations set forth in Paragraph 18 of the Complaint.

PRAYER FOR RELIEF

Plaintiff's Prayer for Relief does not necessitate responsive pleading, but Rediff denies that Plaintiff is entitled to any of the relief sought in the Complaint.

DEFENDANT REDIFF'S AFFIRMATIVE DEFENSES

In addition to the affirmative defenses identified below, Rediff reserves the right to allege additional defenses as they may become known or available through the course of discovery.

FIRST AFFIRMATIVE DEFENSE

19. Plaintiff's Complaint fails to state a claim against Defendant upon which any relief can be granted.

SECOND AFFIRMATIVE DEFENSE

20. Plaintiff's claims are barred, in whole or in part, by the doctrine of Fair Use pursuant to Section 107 of the Copyright Act, 17 U.S.C. § 107.

THIRD AFFIRMATIVE DEFENSE

21. Plaintiff's claims are barred, in whole or in part, by the doctrine of Equitable Estoppel.

FOURTH AFFIRMATIVE DEFENSE

22. Plaintiff's claims are barred, in whole or in part, by the doctrine of Laches.

FIFTH AFFIRMATIVE DEFENSE

23. Any alleged infringement is barred by the statute of limitations as set forth in Section 507 of the Copyright Act, 17 U.S.C. § 507.

SIXTH AFFIRMATIVE DEFENSE

24. Defendant's conduct was innocent, non-infringing, in good faith, and not a willful infringement of copyright, and without any reckless disregard, malice or injurious intent.

SEVENTH AFFIRMATIVE DEFENSE

25. Plaintiff is barred by 17 U.S.C. § 412 from claiming statutory damages or attorney fees under the Copyright Act in that any alleged acts of infringement occurred before first registration of Plaintiff's alleged work.

Dated: New York, New York
September 8, 2017

Respectfully submitted,

By: /s/ Jonathan S. Caplan

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